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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,251	09/03/2004	Eric Mackey	27475/06878	5250
24024 7590 09/11/2007 CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			EXAMINER RODRIGUEZ, RUTH C	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 09/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,251

Applicant(s)

MACKEY ET AL.

Examiner

Ruth C. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 June 2007 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dupre (US 4,432,121).

A bungee cord hook (C) comprises a base portion (2) and a hook portion (1). The base portion has a top and a bottom (Figs. 2-4). The top has a first end and a second end (Figs. 2-4). The hook portion has a first portion extending in a direction

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outward from the first end and a second portion curving away from the first end and the second end. (Figs. 2-4).

The hook portion includes a flared base portion (Figs. 2 and 4). The flared base portion strengthens a connection between the hook portion and the base portion (Figs. 2-4).

The hook portion includes an angled back towards the base portion of the bungee cord hook to provide greater clearance for securing the hook portion of an object (Fig. 4).

The base portion and the hook portion are comprised of overmolded plastic (Figs. 2-4).

The base portion further comprises an angled surface between the first end and the second end (the members joining the first end and the second end are curved or angled with respect to the first end and the second end as seen in Fig. 3).

The base portion further comprises an aperture having a central axis (Fig. 3). The first portion of the hook portion extends parallel to the central axis of the aperture (Fig. 3).

A bungee cord comprises a stretchable cord (CE1) and a bungee cord hook (C) secured to either end of the stretchable cord (Fig. 10). Each of the bungee cord hooks comprises a base portion (2) and a hook portion (1). The base portion has a top and a bottom (Figs. 2-4). The top has a first end and a second end (Figs. 2-4). The hook portion has a first portion extending in a direction outward from the first end and a second portion curving away from the first end and the second end. (Figs. 2-4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-11 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupre in view of Tracy (US 4,559,677).

Dupre disclose a bungee cord hook having all the features mentioned above for the rejection of claims 1 and 12. Dupre fails to disclose that the hook further comprises a protective bumper. However, Tracy teaches a bungee cord (10,12) comprises a stretchable cord (12) and a bungee hook (12) secured to either end of the stretchable cord (Figs. 1 and 2). Each of the bungee hooks comprises a base portion (24) including first and second ends and a hook portion (16) extending outwardly and away from the base portion (Figs. 1 and 2). The hook further comprises a protective bumper (Figs. 1 and 2). It is inherent that the protective bumper provides a better grip of the hook while being placed over an attachment point. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the protective bumper taught by Tracy in the hook disclosed by Dupre. Doing so, provides a better grip of the hook while being placed over an attachment point.

Tracy also teaches that:

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- The protective bumper is located along a circumferential surface of the base portion (Figs. 1 and 2).

- The protective portion aligns with the hook portion (Figs. 1 and 2).

- The protective portion includes a set of grooves (Figs. 1 and 2).

6. Claims 5-7, 16-18 and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader in view of Johnston (US 2004/0148831).

Dupre disclose a hook having all the features mentioned above in paragraph 2 for the rejection of claim 1. The base portion is elongated and an aperture has a central axis (Fig. 3). The first portion of the hook is parallel to the central axis of the aperture (Fig. 3) Dupre fails to disclose that the hook further comprises an indicator plate located at the base portion. However, Princiotta teaches a garment hanger comprising a hook having a base portion (14,30) including first and second ends and a hook portion (20) extending outwardly and away from the base portion (Figs. 2-9). An indicator plate (35) is located in the base portion . The indicator plate provides information (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have an indicator plate located at a base as taught by Princiotta in the hook of Dupre. Doing so, provides information.

The base portion further comprises an angled surface between the first end and the second end (the members joining the first end and the second end are curved or angled with respect to the first end and the second end as seen in Fig. 3).

Princiotta teaches that the indicator plate is recessed within the base portion (Figs. 2-9).

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Princiotta teaches that the indicator plate is a label. Princiotta fails to disclose that the label has a clear protective window covers the indicator plate. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a label provide with a protective window covering the indicator plate since the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Especially since labels with a clear window is well known and the window serves to protect the indicia contained by the label.

A combination of claims 1 and 5 or 12 and 16 will serve to reject the limitations of claim 22, 24, 26 and 27.

The top has an angled surface between the first end and the second end (the members joining the first end and the second end are curved or angled with respect to the first end and the second end as seen in Fig. 3).

Response to Arguments

7. Applicant's arguments filed 25 June 2007 have been fully considered but they are not persuasive.

8. The Applicant argues that Dupre fails to disclose that the first portion of the hook extends outward from the first end of the base because the hook extends from the middle of the base and not the first end. This argument fails to persuade. Figure 4 clearly illustrates that Dupre meets the claimed limitations because the portion of the

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hook where the reference character F2 is located extends outwardly from the first end of the base and the second portion of the hook curves away from the first end and the second end.

9. The next argument is that claims 22, 24 and 26 recite that "a first portion of the hook extending from a first end of the elongated base and parallel to a central axis of an aperture in the base" and that Dupre fails to disclose this limitation. The Examiner fails to be persuaded by this argument. Dupre meets this limitation because the first portion of the hook extends outward of the first end as explained above and a line running along any one of the right side or the left side of the first portion illustrated in Figure 3 will be parallel to the central axis that runs along the aperture in the elongated base.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

/James R. Brittain/
Primary Examiner
Art Unit 3677

rcr

September 4, 2007